



Date: February 1, 2005

To: Presidents/Chief Executive Officers (CEOs) of all Dual Eligible Demonstrations and Social/Health Maintenance Organization (S/HMO) Demonstrations

From: Robert Donnelly, Director, Medicare Drug Benefit Group
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Subject: Guidance for Dual Eligible Demonstrations and Social/Health Maintenance Organization (S/HMO) Demonstrations regarding how to comply with requirements established in the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA)

Please note that the guidance in this memo applies specifically to current Dual Eligible Demonstrations and S/HMO Demonstrations (herein referred to as Demonstrations) with an effective State and/or CMS contract and to all health plan organizations that anticipate having a Dual Eligible and/or S/HMO demonstration contract either approved or effective with CMS prior to January 1, 2006.

In addition to this memo, CMS will provide more detailed information in the coming months, including the 2006 Call Letter for health plans. The CMS health plan website (<http://www.cms.hhs.gov/healthplans/>) is updated regularly and now includes a link to the Key Projected Dates for the implementation of Title I and Title II (<http://www.cms.hhs.gov/medicarereform/mma-t1t2-calendar.pdf>) that is also updated regularly. We encourage you to check these sources routinely for up-to-date information regarding the MMA transition requirements.

Additional instructions may also be provided as appropriate and necessary by Office of Research, Development and Information (ORDI) staff.

Statutory and Regulatory References

The President signed the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) (Pub.L.108-173) on December 8, 2003. The final implementing regulations were published on January 21, 2005. The final MA regulations are codified in 42 CFR 422.

Effective Dates of New Rules

The Final Regulations generally will be effective 60 days after publication, with some provisions expected to be effective later as specified. As is the case with the major changes made by MMA, most major changes in the final rule apply to the contract year beginning January 1, 2006. Because the 2006 contracts are dependent on actions during 2005, the timeframes below set out the actions that must occur before January 1, 2006.

Information To Be Submitted By Transitioning Organizations

In order to transition to a 2006 contract under the new rules or to comply with new requirements in the Title I and Title II final regulations, demonstrations must submit information to CMS according to the following timelines.

1. A signed MA/Demonstration Plan Transition Attestation due by March 23, 2005. This attestation indicates an organization's intent to renew its contract with CMS and transition to 2006 requirements that are applicable to the organization. A submission of a signed attestation enables CMS to have assurances that the organization is fully aware of the MA 2006 requirements and that it is in compliance. A signed attestation is a substitution for submission of detailed compliance information. Compliance with these 2006 requirements is subject to CMS verification at a later date.

Notes:

- **Signing the attestation does not prevent a current MA/Demonstration organization from non-renewing.**
 - **This attestation should also be submitted by a MA/demonstration organization that has an application in process and expects to be approved for the 2005 contract year.**
 - **The return of the attestation will allow CMS to set up the mechanisms and automated systems to transition organizations, accept a Prescription Drug (PD) application, and process the MA bid.**
2. Business integrity – Attestation forthcoming. An attestation as to the organization's involvement over the past three years in any investigations, legal actions or arbitrations brought by a state or federal government agency relating to payments for healthcare and/or prescription drug services.
 3. A Prescription Drug Benefit application due by March 23, 2005.
 4. An MA-PD bid submission due by June 6, 2005. Bid forms are posted at <http://www.cms.hhs.gov/medicarereform>. MA PBP screenshots are available at <http://www.cms.hhs.gov/healthplans/applications/> while the Part D PBP screenshots are available at <http://www.cms.hhs.gov/pdps/>.

The following enclosures provide additional guidance and detail about the required pieces of information.

Enclosure A. Medicare Advantage Transition Requirements is a summary listing the significant MA requirements that first apply to transitioning plans for the 2006 contract year. The enclosure provides instructions and guidance about the information that must be submitted to CMS. The requirements discussed are: (1) Quality Improvement (QI), (2) bid submission, and (3) the Part D MA-PD application. In addition, there is a brief description of how various types of health plans are affected by the Part D requirements, that is, whether the Part D application must be provided as part of the transition.

Enclosure B. Attestation of Compliance with Part C and Part D Requirements or Exemptions From Such Requirements is an attestation form that must be signed by any MA/Demonstration organization intending to participate in Medicare Part C and Part D in 2006.

Enclosure C. Business Integrity Attestation is an attestation form that must be signed by any MA/Demonstration organization intending to participate in Medicare Part C in 2006. Entities that cannot attest to this must submit a brief explanation of any of the described occurrences pursuant to the instructions on the attestation. CMS will provide the attestation shortly.

Who Must Submit Information

All current MA/Demonstration organizations must submit the attestation as the first step in the transition to the post-2005 MA rules.

The Transition Process

CMS will review and process the attestation indicated above, a Part D application, a bid and any other information CMS needs to determine if the transitional plan is complete and acceptable. Approved transitional plans will be awarded contracts during September 2005 for 2006.

Health Plan Management System (HPMS) Contact Information

To ensure a smooth transition to the 2006 rules, we urge health plans to update and maintain current health plan contact information in the CMS HPMS. CMS will communicate via HPMS and e-mails to the health plan's Medicare compliance contact listed in HPMS. All CMS communications about the MA/Demonstration transitions will use the contact information that health plans provide in HPMS. The following information must be up to date: name of MA/Demonstration organization, Medicare compliance contact, mailing address, E-mail address, telephone number, and fax number. **Please update this information, as soon as possible, but no later than March 10, 2005.**

In addition, CMS strongly recommends that all organizations update the HPMS information at least quarterly in order to ensure timely receipt of CMS communications. Additional information concerning HPMS may be found at <http://32.91.239.68/hpms/secure/home.asp>. If you have problems entering this information into HPMS, please contact the HPMS Help Desk at 1-800-220-2028.

Where To Send Information

Please send signed attestations to:

Centers for Medicare & Medicaid Services
Attn: MMA Transition – Alisa Stapleton
Media Center
CMS
7500 Security Boulevard
Baltimore, MD 21244

Please refer to the references below for information on where to send the Part D application and bid submission materials.

Additional References

Please refer to the following web sites for additional information on the 2006 MA/Demonstration transition and requirements. Each web site provides E-mail addresses for submitting questions or comments.

MA Health Plan information – <http://www.cms.hhs.gov/healthplans>.

Medicare 2006 Application Materials – <http://www.cms.hhs.gov/healthplans>.

Up-To-Date Calendar for MA Organizations –
<http://www.cms.hhs.gov/healthplans/letters/> and
<http://www.cms.hhs.gov/medicarereform>.

Prescription Drug Plan Information – <http://www.cms.hhs.gov/pdps>

CMS is committed to working with our current demonstration organizations and State partners to ensure a smooth transition for our beneficiaries. If the above web sites cannot address your questions or concerns, for questions regarding Dual Eligible demonstrations please contact William Clark at 410-786-1484 or wclark1@cms.hhs.gov. For questions regarding S/HMO demonstrations, please contact Ron Deacon at 410-786-6622 or rdeacon@cms.hhs.gov

Enclosure A

Medicare Advantage (MA) (formerly Medicare+Choice)/Demonstration Transition Requirements

This summary is for organizations with a Medicare MA/Demonstration contract prior to 2006. The following is a list of major new MA/Demonstration requirements that will apply to the 2006 contract year with instructions on what information needs to be submitted to CMS for transition to 2006.

1. Quality Improvement (QI) - MA/Demonstration organizations are required to operate a Chronic Care Improvement Program. Organizations must develop criteria and/or methods for identifying enrollees with multiple chronic conditions who would benefit from participating in chronic care improvement activities. Organizations then must monitor the care of enrollees in such program. Also, organizations must operate a QI program and measure performance, system interventions, performance improvement and periodic follow-up. Organizations will be required to report these QI activities to CMS. (Note that several current requirements are deleted effective 2006, including plan participation in a national or site-wide project and the prescribed list of clinical and non-clinical topic areas for projects).

Transition Instructions: CMS is not requiring MA/Demonstration organizations to submit information on the QI requirements. Organizations are only required to sign the attestation (Enclosure B) attesting to meeting all QI requirements in 42 CFR 422 Subpart D by January 1, 2006.

2. Submission of Bids – MA/Demonstration organizations transitioning to the post-2005 MA program will now use a bidding process under which each organizations' basic bid for providing services covered under Part A and Part B will be compared to "benchmark" amounts established by statute. On the first Monday of June beginning in 2005, MA/Demonstration organizations must submit a bid for each plan they intend to offer the upcoming year based on their determination of the plan's monthly expected revenue needs. Bids must also reflect enrollee cost-sharing that is actuarially equivalent to that imposed under the original Medicare fee-for-service program. If this amount is higher than the benchmark amount, this amount must be charged as a premium for Parts A and B benefits. If the bid amount is lower, 75 percent of the difference must be offered to enrollees in benefits or rebates, with the remaining 25 percent reverting to the Medicare Trust Funds. Each bid will have three components, original Medicare benefits (Parts A/B), basic prescription drug coverage under Part D (if any), and supplemental benefits (if any). CMS will review bids and may request additional information. CMS has not determined the precise format of the bid submission at this time and will be announcing these specifications shortly.

All S/HMO demonstrations will be required to bid for A/B, supplemental, and Part D services. Because of the unique characteristics of the demonstrations and existing payment waivers in effect, bidding requirements for demonstrations may be different than

those for non-demonstration MA organizations. ORDI staff will continue to work with demonstration organizations to advise on the process for submitting bid information.

All dual eligible demonstration contractors will be required to bid for Part A/B & D. Dual eligible demonstration contractors will need to sign a contract directly with CMS (for 2006) as MA-SNPs. These plans will continue to receive changes in Medicare payment consistent with prior approval waivers. Dual eligible demonstration contractors will be requested to submit an abbreviated application as required for current MA organizations seeking establishing MA-SNP products – but not the full MA application because contractors already meet other MA requirements.

Additional information will be forthcoming from CMS.

3. Requirement to offer Medicare Advantage – Prescription Drug (MA-PD)

Plan - Under the MMA, MA organizations offering a coordinated care plan must offer at least one MA plan throughout that plan's service area that includes prescription drug coverage under Part D. These MA organizations must apply for qualification to offer a Part D plan. The Part D portion of the MA transition application is also referred to as the "MA-PD application."

The MA-PD application for MA/Demonstration organizations must be submitted by March 23, 2005. Instructions for completing the MA-PD application will be provided in the application. The MA-PD application will be posted on the CMS website in late January 2005. Current MA/Demonstration sponsors can expect the MA-PD application to be an abbreviated version of the Part D application for PDPs, reflecting the waivers CMS will automatically apply to certain PDP requirements as discussed below.

Waivers from Prescription Drug Plan (PDP) requirements

The MA-PD application identifies those PDP sponsor requirements that CMS will waive for MA-PD applicants because the requirements; 1) either conflict with or duplicate MA requirements or; 2) the waivers will help to promote the coordination of Part C and Part D benefits by the MA-PD sponsor. Waivers will not be granted where they would have the effect of compromising the value of the drug benefit contemplated under MMA.

CMS will be granting waivers on its own initiative of the specific requirements listed in an appendix of the MA-PD solicitation. In addition to these waivers, MA-PD applicants will be able to make requests for waivers at the time of application using the same coordination of benefits or conflicting/duplicative requirements justifications. Once approved by CMS, these waivers will be applicable to every similarly situated MA-PD sponsor. All of the approved waivers (both CMS and Applicant-initiated) will be reflected in a Part D amendment to the MA contract.

CMS will provide additional information regarding the submission of these transition elements in late winter/early spring.

Note: Information on employer group waivers for Part C and Part D will be issued in sub-regulatory guidance early in 2005.

Enclosure B

Attestation of Compliance with Medicare Part C and Part D Requirements or Exemption from such Requirements

Part C

By signing this attestation, the MA/Demonstration organization agrees that it will meet all requirements at section 1852 of the Social Security Act (The Act), 42 CFR 422, Subpart D, Quality Improvement by January 1, 2006.

Part D

I understand that Section 1860-21 of the Social Security Act may require my organization to offer Medicare Part D benefits under 42 CFR 423. Further, I understand that should my organization be required to offer Part D benefits, a Medicare Advantage-Prescription Drug application and Part D bid must be successfully completed.

I agree that CMS may inspect any and all information necessary including inspections at the premises of the MA/Demonstration organization or plan to ensure compliance with stated Federal requirements including specific provisions for which I have attested. I further agree to immediately notify CMS if despite this attestation, I become aware of circumstances which preclude full compliance by January 1, 2006 with the requirements indicated above.

Name of Organization: _____

Printed Name of CEO: _____

Signature: _____

Medicare Advantage Contract Number: H#_____

NOTES:

- **This attestation form must be signed by any MA/Demonstration organization that intends to continue contracting with CMS in January 1, 2006.**
- **Signing this attestation does not prevent any organization from non-renewing with CMS or from offering the Part D benefit if it is an option.**